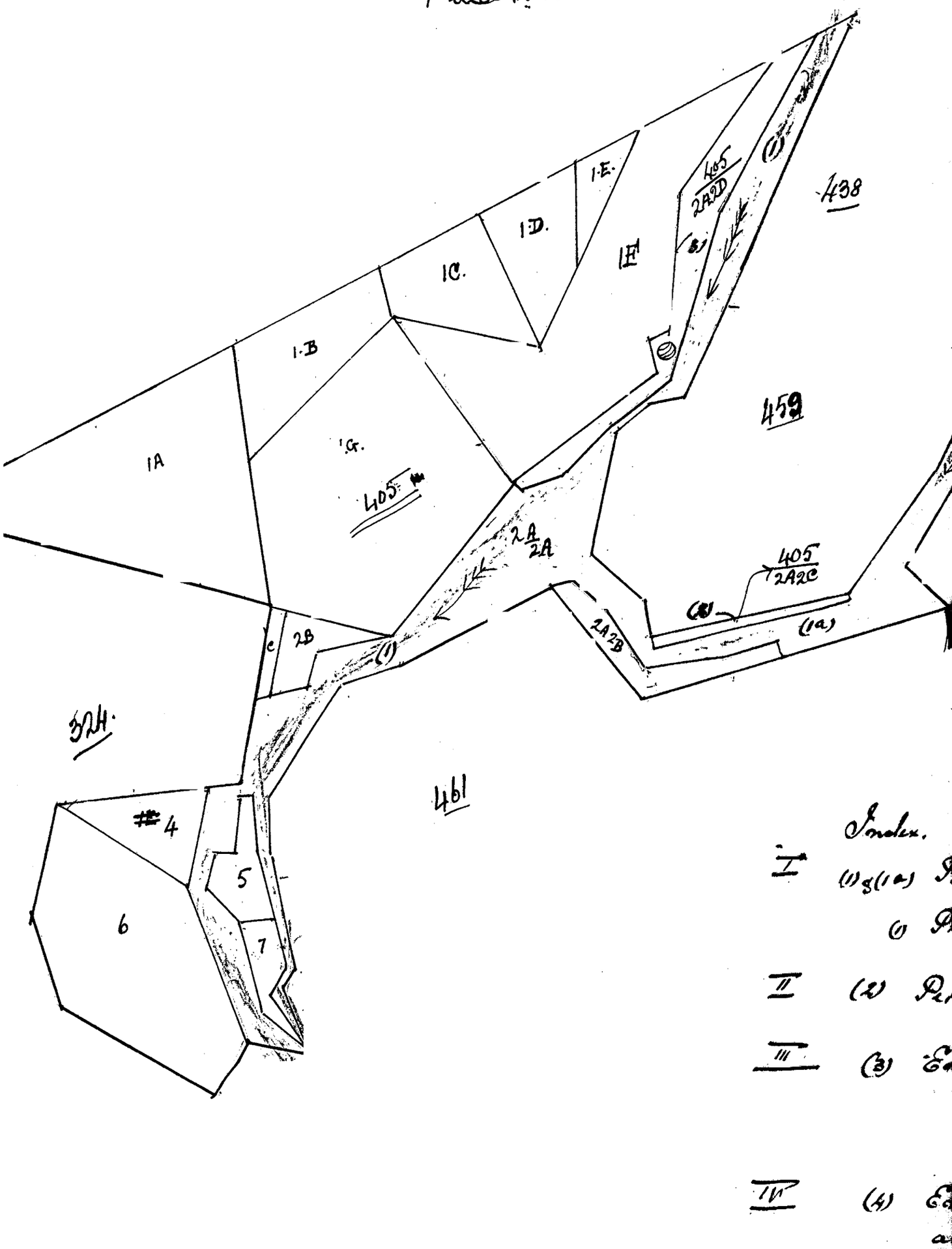
Field No. 405 Village { No 91 Nanded Shiwa



Index.

I (1) & (1a) R

(1) R

II (2) R

III (3) E

IV (4) E

a

INDIA COURT FEE INDIA

½ R

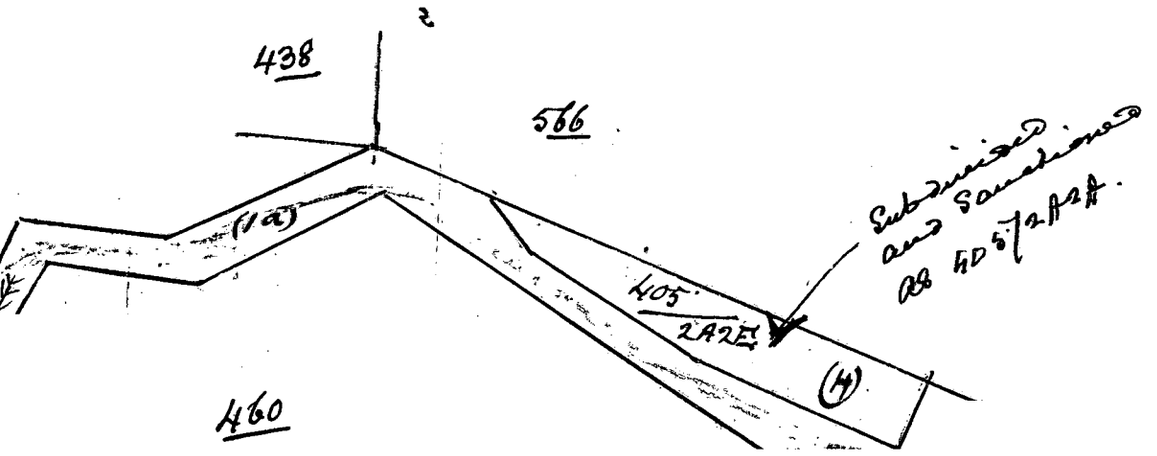
Mandal Advocate

28-7-28

Bangalore

EIGHT ANNAS

7



Boomkopi channel S. No. 405 2A. 2A.

Principal channel. — (1a) Branch channel

Petitioner's Encroachment. S. No. 405/2A.2C.

Encroachment by the former Shirvia Shanbogue
Shanmunarayan Rao and granted by
Thimon Shankar — S. No. 405/2A2D.

Encroachment by Bartiaron Menezes
and granted by Thimon Shankar — S. No. 405/2A2E

* ಅಪೇಕ್ಷಕರ ಸಹಿ ನಾಮ

Petitioner.

24-8-1928

8

D.Dis.No.2568-28.

Proceedings of the Collector of South Kanara, dated the 7th May 1928.

C. G. Herbert, Esquire, I.C.S.

Encroachment - Land - Udipi Taluk - Shirwa village - S.Nos.405/2A2C - eviction - appeal - orders passed.

Read:-

(1) Petition dated 29th February 1928 of Marcel Lobo.

(2) Coondapoor Revenue Divisional officer's N.Dis.1766-28, dated 25th April 1928.

(3) All the connected records.

O r d e r:-

The encroachment is objectionable and must be removed.

Appeal dismissed.

(Sd) H. Sankara Rao,
For Collector.

True Copy.
(By Order)

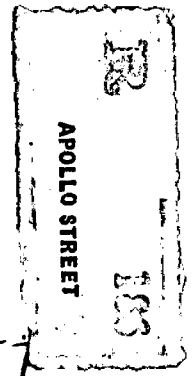
English Head Clerk.

To the appellant, Marcel Lobo son of [illegible] alias Juvam Lobo, residing at Naidhaddy, Shirwa village, Udipi Taluk.

Copy (in duplicate) to the Revenue Divisional officer, Coondapoor with the records of E.C.34/33 returned.

H.D!S.8/5.

23.5.28



Registered and Acknowledgement.

To

The Board of Revenue,

Madras.

Through

The District Collector of South Kanara,

Mangalore

South Kanara

from

Marcel Lobo

Imperial Restaurant

89 Apollo Street

Fort

Bombay.

10

Encroachment: (S. Kanara)

re dispn the Shirura vge Marcel Lobo
S.nos. 405/2A2C Eviction Rem
petn

B 5817 — Q

Rejce: B5817/28-1 dt 12.9.28
Forwarded to the Collr.
of S. Kanara for submission of
the records with remarks on
any allegations in the petn.
which are not clearly dealt
with in the records.

by
12.9.28.

RR
11/9

PPS
12/9

OTV Stamps sufficient
The Collr's order is dated
7.5.28 and the appeal time
is only two months For the reasons
stated on p 5 cf, the delay in
the presentation of the petn
may be condoned

by
12-9-28.

RR
11/9

PPS
12/9

S
ASC (HR)
11-10
Gee 13/9

R 1. 11/10/28 Dasped
11. 5 11.11.28 dispd. H/18 +

H
5 +1

12.9.28

Do the Collr. of S. Kanara
with a petn & recds
to be rets with reply

RR
11/9
11.9.28

p8 cf

p5 cf.

232 12 B6153

From,

Marcel Lobo,
c/o Imperial Restaurant,
89, Apollo Street, Fort,
Bombay, 18th September 1928.

To

The Secretary of Board,

Revenue Madras.

Respected Sir,

I beg to inform you that an appeal was registered by me by mistake to you on the 4-9-28.

So I shall be highly obliged if you will kindly forward that appeal to the following address and oblige. Five annas stamp is enclosed herewith for registering the same. The appeal is to go to The Board of Revenue, Land Revenue & Settlement, Madras.

Please arrange to send the Registered receipt to my address and oblige.

Hoping to be excused for the trouble.

I beg to remain,

Respected Sir,

Your most obedient servant,

Marcel Lobo.

AB(A12) with 5 as stamp
DESPATCHED
3 OCT 1928

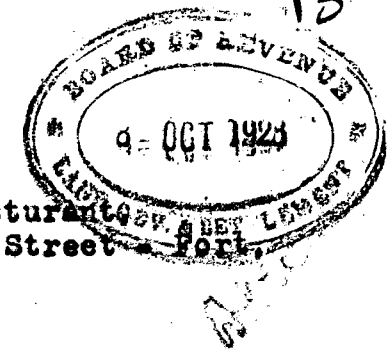
B 6153 Q

Ref: B 5817/28-2 dt 1.10.28
appeal
the petition has
been received in the Office of the
Board of Revenue, Land Rev. Estt
Stamps to the value of five
annas forwarded by the petr are
retd. to him. 1.10.28

Rep 1.10.28
2969 To the petr with 5 as postage stamps

13

B6278



From,

Marcel Lobo,
c/o Imperial Resturant,
89, Apollo Street, Fort,
Bombay.

3rd. October. 1928.

To,

The Secretary of Board,
Revenue,
Madras.

Sir,

I requested you in my letter of 18th September last, to re-direct the enclosers posted to your address erroneously to the "Board of Revenue, Land Revenue and Settlement, Madras" but I have not heard from you in this direction. Kindly favour me by Returning same to my above add address in the event if you have not yet re-directed the Documents as requested in my above letter.

Thanking you for the favour and hoping to be excused for intruding upon your valuable time.

I beg to remain,

Sir,

Your most obediently.

P.S. Letter of 18th September is annexed herewith for your ready reference.

ABC(LRD)

Reply sent on 3rd p. 12 Oct.

Filed

8.10.28

Tel:

Tarcoa Lodge,
c/o Imperial Restaurant,
69, Apollo Street - Port,
Egypt.

3rd. October. 1939.

To:

The Secretary of Board,
Revenue,
Ladras.

Sir,

I requested you in my letter of 18th September last, to re-direct the envelopes posted to your address erroneously to the "Board of Revenue,Land Revenue and Settlement, Madras" but I have not heard from you in this direction. Kindly favour me by returning same to my above address in the event if you have not yet re-directed the documents as requested in my above letter.

Thanking you for the favour and hoping to be excused for intruding upon your valuable time

I beg to remain,

Your most obediently.

P.S. Letter of 18th September re answers Renewals for Your ready reference.

MADE NORWAY

U.S. STEARNS DC

14

From,

Marcel Lobo,
c/o Imperial Resturant,
89, Apollo Street - Fort,
Bombay.

18th. September, 1928.

To,

The Secretary of Board,
Revenue Madras.

Respected Sir,

I beg to inform you that an appeal was registered by me by mistake to you/ on the 4 - 9 - 28.

So I shall be highly obliged if you will kindly forward that appeal to the following address and oblige. Five Annas stamp is enclosed herewith for registering the same. The appeal is to go to The Board of Revenue, Land Revenue & Settlement. Madras.

Please arrange to send the Registered receipt to my address and oblige.

Hoping to be excused for the trouble.

I beg to remain,
Respected Sir,
Your most obenient servant.

From,

Tarcol [illegible]
c/o [illegible]ial Restaurant,
St. [illegible]bolio Street - Port.
Sunday, 18th. September.1928.

To

The Secretary of Board,
Revenue Madras.

Respected Sir:

I beg to inform you that an appeal was registered by
by mistake to your on the 4 - 9 - 28.

So I shall be mighty obliged if you will kindly forwa
that appeal to the following address and oblige. Kivo Annas stamp i
enclosed herewith for registering the same. The appeal is to go to
Board of Revenue, Land Revenue & Settlement. Madras.

Please arrange to send the Registered receipt to my
address and oblige.

Hoping to be excused for the trouble

I beg to remain,

Respected Sir,

Your most obedient servant.

72 16 B63340

The Board of Revenue, Madras.

E.S.No: 34/36. Revision Petn.No._____ 1928.

Revision Petition under Sec: 10 of Act III of 1908.

(Re: Survey No. 405/2A, 2B, Shirva Village Encroachment 18 Cents.)

Albert Lobo. ---------- Revision Petitioner.

The petitioner abovenamed begs to state as follows:-

I. That Petitioner Albert Lobo is the son of Andrew Lobo, Indian Christian, and resides at Naidhaddu of Shirva Village, Udipi Taluq. --- } Revision Petitioner

N.B. The above is Petitioner's address for service of Notices and Process.

II. Subject matter of the Petition.

Being highly aggrieved by the order of the District Collector of South Kanara dated 14-8-1928 and served on petitioner on 29-8-1928 dismissing petitioner's Appeal ----- dated 30-6-1928, the petitioner begs to prefer this praying for a revision of the said Order for the following among --- other grounds.

1. The Lower Revenue Court has given no reason for dismissing the said appeal of the petitioner except that his encroachment is objectionable.

2. The petitioner begs to state a few facts regarding the probable origin and the present condition and utility of the Poramboke channel, S. No. 405/2A, 2B, a portion of which is his encroachment ordered to be removed.

(a) Prior to the Revenue Settlement in the South Kanara District all that area which now forms the channel ---------

S. No. 405/2A-2A was Punja. The constant flow of water year after year, especially during the monsoons, must have shaped the said Punja into a channel bed, and at the Revenue Settlement, as the Petitioner has recently learned, the entire area of the channel, 3 acres and 26 cents, was classified as Poramboke, S. No. 405/2A.2A.

(b) Two arms, one the principal channel and another a branch joining it, now form S.No. 405/2A.2A. The arm which runs from North-East towards the South has its source at a small spring and contains running water even after the termination of the Monsoons till almost the end of April, and stagnant water in pools here and there subsequently; and is the principal channel.

(c) The other arm or branch channel which joins the said principal channel, runs from East to West starting at the base of some hills situated about 400 yeards East of the principal channel. This is a passage for the rain water that flows down the surrounding heights at its source, and is quite dry at all other seasons of the year, and is therefore in no way helpful for agriculture purposes.

3. The petitioner's encroachment S. No.405/2A, 2B, 18 cents in extent, forms a narrow length-wise strip along the Southern Bank of the said branch channel which as stated above contains water at no other season of the year except the "rainy" season. Besides for the free flow of water during the monsoons along this branch channel there is yet space 2 to 3 yards in width between its Northern Bank and petitioner's encroachment, and the existence of the encroachment the petitioner begs to submit, is in no way objectionable.

4. Further the rush of water during the monsoons year after year along the said branch channel had gradually washed away small portions of petitioner's Darkhast land S.No.461/2

which formed the Southern Bank of the said channel. To protect his land therefore from further erosion petitioner was constrained to put up a stone embankment along the channel -- front. Unable to find out 2) what ~~(a last)~~ portion of the said S. No. 461/2 had been washed away and unaware also that he was encroaching upon a channel which was Poramboke, petitioner filled up a narrow strip of the said channel to the level of S.No. 461/2 and protected the same on its channel frontage with a granite stone embankment.

5. The encroachment dated 3) back more than 8 years, and is 18 cents in extent, forming a narrow strip along the Southern Bank of the branch channel.

6. Besides, the encroachment was made not without the --- knowledge of the Magane Shanbhogue of Shirva Shankernarayan Rao, and in the bona-fide belief that the encroachment if any would be assigned to petitioner on Darkhast as land contiguous with and kumaki to his S.No. 461/2.

7. The Eastern portion of petitioner's encroachment, about 4 cents out of the 18, is mere rock. In the remaining ----- portion the petitioner at great personal labour and expense 4) has removed big boulders of rock, filled in the open spaces with mud to raise it to a level with S.No.461/2, and protected the same on its Northern side by granite stone embankment. A portion of the encroachment has been converted into a field and added to S.No.461/2; on the ridge of the field and --- between the embankment and the field 7 Cocoanut plants two of which are now fruit bearing and the others just about to bear 7 mango and jack plants, and 15 Sagvani trees have been ---- planted. At a minimum valuation the said improvements have cost petitioner Rs.200/- which considering his small means is a large amount to lose.

8. The further hardship for petitioner if in execution of the lower Revenue Court's order the encroachment is -----

removed is that he will be constrained to construct at additional cost a fresh stone embankment at the proper Northern boundary of S.No. 461/2 to protect the same from being gradually washed away during the monsoons.

9. Neither the Lower Revenue Court nor at its instance the Tahsildar of Udipi Taluq or the Revenue Officer of the Coondapur Division have inspected the locality in connection with petitioner's encroachment. The order of the Lower Revenue Court is passed without any consideration for the nature of petitioner's encroachment, the improvements effected by him thereon, the long period of 8 years during which petitioner has been in possession of the encroached land, and the resultant loss of improvements and the additional cost of a new embankment.

10. The petitioner respectfully begs to point out that ---- another encroachment S.No.405/2A.2D. about 30 cents in extent on the Western-side of the principal channel by the abovenamed Shirva Shanbhogue Shankarnarayana Rao, the existence of which almost blocks the main channel, has yet been granted to him on Darkhast by Government in E.C.No.32/37. The Government has also been pleased to assign to one Sebastian Minezes his encroachment of 10 Cents, S.No. 405/2A,2E, on the Northern-side of the said branch channel in E.C.No.26/37. The petitioner therefore begs to submit that Two Darkhast assignments by Government ---- completely negative the objectionable nature of petitioner's --- encroachment.

III. In view of the facts above stated petitioner humbly prays that :-

(a) This Board before passing any orders may be pleased to order an inspection of petitioner's encroachment to verify the statements made above.

(b) This Board in Revision may be pleased to set-aside the

order of the Lower Revenue Court and grant the encroachment S. No. 405/2A, 2B, 18 Cents to petitioner on Darkhast on such terms as the Board may deem fit.

Udipi, (Errors Corrections 6 only)
8th October, '28. [illegible]

I, Albert Lobo, petitioner herein, hereby declare that what is stated above is true to my own knowledge, except what is stated in Para II 2 (a) which is stated on information and I believe the same to be true.

Udipi,
8th October, '28. [illegible]

D.Dis.5680-28.

Proceedings of the Collector of South Kanara, Dated, 14th August, 1928.

C. G. Herbert, Esquire, I.C.S.

Encroachment - channel - Udipi Taluk - Shirwa village - S.No. 405/2A2B - eviction - appeal - orders passed.

1. Appeal petition dated 30-6-28 of Albert Lobo.
2. Udipi Tahsildar's N.Dis.1683-28 dated 18-7-28. &
3. Coondapoor Rev.Divl.Officer's N.Dis. No.5138-28 dated 28-7-28.

Order.

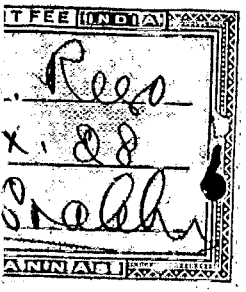
The encroachment is objectionable and must be removed.

Sd/- H. Sankar Rao,
For Collector.

True copy
(By order)

Huzur Sheriatedar.

To
The appellant through The Tahsildar Udipi.
Copy to Rev.Divl.Officer Coondapoor with records of E.C No. 34/3.


TFEE INDIA
ANUN AD

22

Encroachment; Land (S. Kanara)
Udipi taluk Shirva village
S.No. 605/2A et. Rempetition. from A. holio

AS(KR)

Read B.No. 6340/ 1928---Q.

Reference No.B 6340/28-1 dated 15.10.28

Forwarded to the Collector of S. Canara for submission of the records with remarks on any allegations in the petition which are not clearly dealt with in the records.

15-10-28

Issue
15.10.28

To the Collector of S. Canara
with a petition and its enclosures
(to be returned with reply)

17 OCT 1928

12/10
12.10.28

ON — No appeal is in time and properly stamped No eviction is alleged to have existed for 8 years and this now ordered to be vacated A report may be called for

15.10.28

106

B6768

BOARD OF REVENUE
23
8 NOV 1928
LAND REV. & SETTLEMENT

R.O.C. A1-8255-28
A1-9415-28

South Kanara Collector's Office,
Mangalore, 3rd November 1928.

From

G. W. Wells, Esquire, M.A., I.C.S.,
Collector of South Kanara.

To

The Secretary to the Board,
Land Revenue & Settlement,
M a d r a s.

Sir,

Encroachment - Land (South Kanara) - Udipi Taluk - Shirwa village - S.Nos.405/2A2B and 405/2A2C - revision petitions to the Board from A. Lobo and Marcel Lobo - Report submitted.

******

p10 of p22 of Board's Ref.B.5817-28-1, dated 12th September 1928 and Ref.B.6340-28-1, dated 15th October 1928.

******

(A) The sketch of the plots encroached upon is at page 27 of the Taluk file E.C.34/36. The encroachments are S.Nos. 405/2A2B and 405/2A2C. They form portions of the poramboke channel S.No.405/2A2. The petitioners have encroached upon them by planting fruit trees and putting up granite embankments on either side of the channel. A portion of S.No.405/2A2B measuring about 5 cents has also been converted into a paddy flat. The Revenue Divisional Officer, Coondapoor having said p52 of (A) that the channel has been very much narrowed by these encroachments which have also tended to render crooked the otherwise straight boundaries of the channel, my predecessor, Mr. Herbert p11 of (B) passed the orders D.Dis.2568-28, dated 7th May 1928 and D.Dis. p9 of (C) 5680-28, dated 14th August 1928 now petitioned against.

2. The present Revenue Divisional Officer, Coondapoor remarks that his predecessor does not appear to have come to the above conclusion as the result of a local inspection and that he held an inspection on 5th October 1928 in the presence of the parties and other ryots and found the encro-

objectionable. He states that the channel in which both these encroachments lie is a small hill-stream, which takes off the storm water and joins another and main thodu (channel) on the west, that the actual bed of the minor thodu extends to about 5 links only, that there is no irrigation under it, that the abridgement of its width at the place where the encroachments are does not prejudicially affect any state interests or the interests of irrigation, drainage or otherwise) of the private land-owners in this locality and that the neighbouring ryots present at the locality had no objection to the assignment of the plots to the encroachers.

3. As regards the cases referred to in para 10 of the petitions, a portion of the minor channel S.No.405/2A2E (sanctioned as S.No.405/2A2A) encroached upon by one Bastian Minezes has been assigned to him in D.R.645/37. Two other plots S.Nos.405/2A2,2A3 which form portions of the main channel have been encroached upon and steps are being taken to assign them on payment of site value. Please see page 13 of Taluk file E.C.32/37. Another plot, S.No.405/2B in the main channel has already been assigned in D.R.1163/1327.

pp4 & 19 cf

(F)

(D)

(E)

4. The No.4 kind of trees planted on the plots in question are set forth in the Revenue Inspector's report dated 15th October 1926. Though the adjoining warg lands of the petitioners may have been in danger of erosion by the rush of storm water in the channel, they should have put up the embankments in their own lands. However, as the Revenue Divisional officer remarks that the plots can be assigned on payment of site value, I recommend that the petitioners' request may be granted.

p 18 cf (A)

5. The petitions to the Board with their enclosures and the records noted in the margin are submitted herewith.

Your obedient servant,

For Collector.

List of records.

1. D.R.No.645/37.
2. E.C.34/36.
3. E.C.No.32/37.
4. D.R.No.1163/27.
5. This office D.Dis.2568-28, dated 7th May 1928.
6. Do. D.Dis.5680-28, dated 14th August 1928.

R. F. XXII-A-19.—22,004 -1-2-28. (6)

Subject.—

FOR MEMBER.

Encroachment: (S. Kanara)

Udipi Tq Shirwa Vge

S. no 405/2A2A parts

READ AGAIN B. P. No. _____ dated Marcel Noho & Albert Noh 192 .

" " " _____ , " Orders passed 192 .

READ ALSO :-

Register No. _____ , From the B 5817 — Q No. pp 1-3 dated _____ 192 .
to petr Tenders

" _____ " " 6340 — Q " pp 16-20 cf " _____ 192 .
to petr & Collr

" " _____ " " 6268 . Q " p 23-24 cf " _____ 192 .
to Collr.

RESOLUTION, (Mis) No. 3908, dated 20. 11. 192 8

The Board approves of the Collrs recommendation in para 4 of his letter

2. The petr is referred to the Collr for orders on this petn. read above.

20.11.25

20.11.28

To the Collr. of S. Kanara R.h 19/11
with records
as per Rec'd
Spruce
(Langing)
a petr. (Para 2 only.)

19.11.28

× 1) Thomas Noho
Naidhaddu,
Shirwa village
Udipi Tq.
2) Albert Noho. S. Kanara.
Naidhaddu. Shirwa village.

KM 2

M I

S

A.S.(KR)

Encroachment: (S. Kanara)

Udipi Tk

Shirwa vge · S.no. 405/2A 2A parts · - Marcel Lobo and Albert Lobo. Revn petns

B 5817 pp 1 - 5 cf.

B 6340 pp 16 - 20 cf

B 6768 pp 23 - 24 cf

To A.S.

9/CM/10/M

This file relates to two revision petns against the colln's order refusing to assign the sites encroached upon. Both relate to encroachment in the same channel and lie opposite to each other. The two petns are a copy of each other and the main contention in favour of the assignment is that the encroachment has existed for about 8 years and that it is in no way objectionable, as will be evidenced by the assignment of some encroachments in the same channel. The colln's report deals with both the petns.

pp 23-24 cf

The previous R.D.O's remark that the encroachments render crooked an otherwise straight, permissible boundary and narrow the channel is correct as a glance at the sketch on p. 27 of (A) will show. The present R.D.O's recommendation

p 52 of (A)

para 2, pp 23-24 of

is based on the fact that
in favour of the encroachers as the abridgment
of the width of the channel at the place where
the encroachments are does not prejudicially
affect any interests State or private and
that the neighbouring ryots have no objections
to the assignment. No collr. report to the
who has inspected the site
R.D.O. for orders.

13.11.28

R. VEDAM
13.11.28

The Collrs recommendation may be accepted

13.11.28

M2

2010
14/11

17 11 28

To AS (&R)

Draft Submd.

20.11.28

19.11.28

BP Mis 3908 & 20.11.28 B3

Board's Proceedings No. 3908 dated 20th November 1928.

List of Records.

1. D.R. No. 645/37
2. E.C. 34/36
3. E.C.No.32/37
4. D.R.No. 1163/27
5. This office D-Dis. 2568-28, dated 7-5-1928
6. do D.Dis. 5680-28, dated 14-8-1928.

Sirkanara Collectorate
Madras
dated 28.11.28

Received the above records.

M Ranganathan
Huzur Sheristedar.
28.11.28

To
The Secretary to the Board,
Land Revenue & Settlement
Madras.

28/11/28